



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,530	12/05/2003	Thomas F. Fakes	MS1-1704US	1900
22801 7590 12/18/2008				
LEE & HAYES, PLLC				
601 W. RIVERSIDE AVENUE				
SUITE 1400				
SPOKANE, WA 99201				
EXAMINER				
DINH, MINH				
ART UNIT		PAPER NUMBER		
2432				
MAIL DATE		DELIVERY MODE		
12/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/729,530

Applicant(s)

FAKES ET AL.

Examiner

MINH DINH

Art Unit

2432

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-38 and 40-49 is/are pending in the application.
4a) Of the above claim(s) 5,6,15-30,35,36,42,43 and 47-49 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3,4,7-14,31-34,37,38,40,41 and 44-46 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-646)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the RCE/amendment filed 09/30/08. Claims 1, 3, 31, 33-34, 38, 40-41, 44 and 46 have been amended; claims 2 and 39 have been canceled.

Response to Arguments

2. Applicant's arguments filed 09/30/08 have been fully considered but they are not persuasive. Applicant argues that Moshir (US 2004/0003266 A1) fails to disclose the feature "receiving an indication to ignore the new set of rules and continue operating each of the plurality of security engines according to the previous rules when at least one of the plurality of security engines has determined that it is not ready to begin using the new security policy" (page 19).

Moshir discloses that the security policies for the plurality of security engines are updated according to a scheduled rollout, and each security engine is to report the result of the update, whether a success or a failure/error. Specifically, Moshir discloses that when one of the security engines has determined that it is not ready to begin using the new security policy (i.e., when an update installation failure is detected/reported), all security engines receives an indication to ignore the new set of rules and continue operating according to the previous rules (i.e., update is removed from all security engines and they rollback to their pre-update state) (paragraphs 0030, 0059, 0074-0078).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 3-4 and 7-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claim 1 recites the limitations "returning a fail value when each of the plurality of security engines has determined that it is not ready to begin using the new security policy; returning a pass value when each of the plurality of security engines has determined that it is ready to begin using the new security policy" (lines 9-12). Whereas the disclosure describes that each security engines returns either a failure value or an OK value depending on whether the security engine itself has successfully processed the new policy, the disclosure does not describe returning the OK/ failure value when each of the security engines has successfully/unsuccessfully processed the new policy. Therefore, the limitations are considered new matter. Claims 41 is rejected on the same basis as claim 1. For prior art rejection purpose, the limitations are interpreted as "each of the security engines returning a fail value when the security engine has determined that it is not ready to begin using the new security policy; each of the security engines returning

a pass value when the security engine has determined that it is ready to begin using the new security policy”.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-4 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miliefsky (US 2005/0044418 A1) in view of Moshir et al. (US 2004/0003266 A1) and Date (“An Introduction to Database System”).

Miliefsky discloses a computing device comprising a plurality of security engines each having a current security policy (i.e., an INFOSEC ENGINE with plug-in components such as a firewall engine, an antivirus engine, an intrusion detection engine, a vulnerability analysis engine, a denial-of-service engine, etc.) (Fig. 7; paragraph 0039). Miliefsky also discloses updating the security policies (i.e., performing security updates and upgrade patches for the plug-in components) (paragraph 0041).

Miliefsky does not disclose (i) each of the security engines returning a fail value when the security engine has determined that it is not ready to begin using the new security policy; (ii) each of the security engines returning a pass value when the security engine has determined that it is ready to begin using the new security policy; and (iii) receiving an indication to ignore the new set of rules and continue operating each of the plurality of security engines according to the previous rules when at least one of the

plurality of security engines has determined that it is not ready to begin using the new security policy. Moshir discloses a method and system for updating security policies for a plurality of security engines (paragraphs 0030, 0059, 0181). Specifically, Moshir discloses each of the security engines returning a fail value when the security engine has determined that it is not ready to begin using the new security policy (i.e., update fails to install properly); each of the security engines returning a pass value when the security engine has determined that it is ready to begin using the new security policy (i.e., update installs properly); and receiving an indication to ignore the new set of rules and continue operating each of the plurality of security engines according to the previous rules when at least one of the plurality of security engines has determined that it is not ready to begin using the new security (i.e., when an update installation failure is detected/reported, update is removed from all security engines and they rollback to their pre-update state) (paragraphs 0074-0078). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Moshir's method of updating security policies into Miliefsky's system. The motivation for doing so would have been to leave the network in a usable state in case of a faulty update (paragraph 0045).

Moshir discloses that the security engines receive a system-wide rollback if any of the security engines has failed to process the new security policy (i.e., indication to ignore the new set of rules and continue using the previous rules); however, Moshir does not disclose that the security engines switch to the new policy after receiving a system-wide commit command indicating that all updates have been successfully

processed. Date, in addition to a system-wide rollback as described in Moshir, discloses a two-phase commit protocol used in an update operation involving multiple participants whereby each participant starts using updated information after receiving a system-wide commit command indicating that all of the participants have successfully processed the update (page 463). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined method and system of Miliefsky further to utilize a system-wide commit command, as taught by Date. The motivation for doing so would have been to guarantee that all updates could happen in unison (page 463, 1st paragraph).

7. Claims 31-34, 37-38, 40-41 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir in view of Date. Moshir discloses a method comprising: receiving an indication of a new security policy to be used (i.e., new antivirus software files, a security fix/patch); generating a new set of rules from the new security policy (i.e., performing updating of the file/fix/patch) (paragraphs 0030, 0059, 0074-0078); returning a fail value when the security engine has determined that it is not ready to begin using the new security policy (i.e., update fails to install properly); each of the security engines returning a pass value when the security engine has determined that it is ready to begin using the new security policy (i.e., update installs properly); and continuing using the previous rules when it is determined that the new set of rules are not ready for use (i.e., when an update installation failure is detected/reported, update is removed from all security engines and they rollback to their pre-update state) (paragraphs 0074-0078).

Moshir discloses that the security engines receive a system-wide rollback if any of the security engines has failed to process the new security policy (i.e., indication to ignore the new set of rules and continue using the previous rules); however, Moshir does not disclose that the security engines switch to the new policy after receiving a system-wide commit command indicating that all updates have been successfully processed. Date, in addition to a system-wide rollback as described in Moshir, discloses a two-phase commit protocol used in an update operation involving multiple participants whereby each participant starts using updated information after receiving a system-wide commit command indicating that all of the participants have successfully processed the update (page 463). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined method and system of Moshir to utilize a system-wide commit command, as taught by Date. The motivation for doing so would have been to guarantee that all updates could happen in unison (page 463, 1st paragraph).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH DINH whose telephone number is (571)272-3802. The examiner can normally be reached on Mon-Fri: 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/729,530

Page 8

Art Unit: 2432

/Minh Dinh/

Examiner, Art Unit 2432

12/16/08